

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 3, 2010 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 3-14, 19, 20, 21, 23, 27-30, and 32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 3-14, 19, 20, 21, 23, 27-30 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is

nowhere in the Applicant's disclosure that the claimed invention can calculate a "maximum height," of the electronic ink. The Applicant does calculate an "average height," which does not have to incorporate finding the maximum. **The Examiner points out that if claims 1 and 19 (and dependencies were corrected) to reflect independent claim 15 than they also would be allowable.**

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19, 20, 23, 29, and 32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Under the new Official Gazette Notice (1351 OG 212, February 23, 2010), computer readable media can still be considered signals which are non-statutory subject matter. An easy way to correct this is by including the word "non-transitory," so that it reads "A non-transitory" computer-readable memory medium..."

Allowable Subject Matter

6. Claims 15-18 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

8. Gounares, et al., US 2003/0215142 teaches a system that converts electronic ink into text (Abstract, Fig. 5). Keely et al., US 2003/0214491 A1, teaches that electronic

Art Unit: 2624

ink can be converted to text (Fig. 2, module "211" [0050]), and also teaches determining an average letter height of letters written in electronic ink ([0059]). However, Keely does not use the average height to change any of the input characters, only to change guidelines. Thus, a person of ordinary skill in the art would find no reason to combine the two references since there is no motivation to covert electronic ink into text which is the average size of the electronic ink.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VANCHY JR whose telephone number is (571)270-1193. The examiner can normally be reached on Monday - Friday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571)272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael J. Vanchy Jr.
Examiner, AU 2624
(571) 270-1193
Michael.Vanchy@uspto.gov

/Brian P. Werner/
Primary Examiner, Art Unit 2624